IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA ASHEVILLE DIVISION 1:20-cv-00376-WCM

SHERRI WILKES,)	
Plaintiff,)))	ORDER
v.)	
BUNCOMBE OPERATIONS, LLC doing business as))	
Harmony at Reynolds Mountain	Ś	
Defendant.)	

This matter is before the Court on Defendant's Motion to Compel and Motion for Sanctions (the "Motion," Doc. 30). At the conclusion of a hearing on the Motion on October 5, 2022, the undersigned denied the Motion. This Order memorializes that ruling.

By the Motion, Defendant requested an Order compelling Plaintiff 1) to provide responses to Interrogatories and Requests for Production that were served on Plaintiff on May 11, 2022 (the "Discovery Requests") and 2) to "submit to a deposition." The Motion also requested that sanctions be imposed, including an award of costs and attorneys' fees for the filing of the Motion to Compel and/or dismissal of Plaintiff's claims.

Plaintiff responded in opposition to the Motion, and Defendant replied.

Docs. 35, 37.

During the October 5 hearing, the parties advised that a date for Plaintiff's deposition has been identified and Defendant confirmed that Plaintiff has now responded to the Discovery Requests such that the Motion to Compel was most to the extent it sought an Order compelling Plaintiff's responses. Defendant also withdrew its request for sanctions beyond an award of expenses pursuant to Rule 37.

Defendant maintained its request for an award of fees and costs associated with the Motion and the parties presented their arguments on that issue.

IT IS THEREFORE ORDERED THAT:

1. To the extent Defendant's Motion to Compel and Motion for Sanctions (Doc. 30) seeks an Order compelling Plaintiff to respond to the Discovery Requests or to provide a date for Plaintiff's deposition, or imposing sanctions other than an award of attorneys' fees and costs, the Motion is **DENIED AS MOOT**.

2. To the extent the Motion seeks an award of attorneys' fees and costs pursuant to Rule 37(a)(5) of the Federal Rules of Civil Procedure, the Motion is **DENIED**, as the Court has concluded in the exercise of its discretion that such an award is not required under the circumstances presented here.

Signed: October 5, 2022

W. Carleton Metcalf

United States Magistrate Judge